

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-066

Judges:

Complainant:

ORDER

June 30, 2021

The Complainant alleged three appellate court judges have violated their oaths of office and allowed the complainant's constitutional rights to be violated.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Michael J. Brown, Louis Frank Dominguez and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on June 30, 2021.

2021-066

Judge's names:

1)

2)

3)

Location:

Court:

Court

This case was decided by the above named Judge's

This case is now pending in the Arizona Court

Case name and numbers; state v.

(Consolidated)

Attorney's who appeared in this case:

1) Public Defender

Court

2) Defendant

- Pro Per -

Court

3)

- Public Defender, Court

4)

- Counsel

Judge's conduct can be observed in court transcripts and verified by above listed counsel

2021-066

I do understand the Commission cannot reverse
court orders or assign a new Judge to a case

I affirm, under penalty of perjury, that the
foregoing information and the allegations
contained in the attached complaint are true.

Signature

Date

COMPLAINT AGAINST A JUDGE

Name: _____

Judge's Name: _____

2)

3)

The Constitution of Arizona, Article 6 § 26 is the Oath of Office and it reads: Section 26. Each Justice, Judge and Justice of the peace shall, before entering upon the duties of his office, take and subscribe an oath that he will support the Constitution of the United States and the Constitution of the State of Arizona, and that he will faithfully and impartially discharge the duties of his office to the best of his abilities.

It is common knowledge, that an individual charged with a crime has a Constitutional Right to a fair trial, to call witnesses, and to testify on his own behalf. That is not what took place during this case, and although raised in the Appeal, the Arizona Court Judges mentioned above, chose not to consider the issue raised due to untimely filing.

However, this reasoning is irrelevant as it does not comply with the oath of office that the Judge's swore to uphold.

In this case a timely Opening Brief was filed with the Court on _____

A timely Answer and Reply Brief followed.

On _____ Counsel for appellant received a letter post marked _____ and from _____ (Appellant). (See

exhibit #1) Mr _____ stated to Appellate Counsel that he believed the trial court failed to comply with Rule 16.2(c) of the Arizona Rules of Procedure. Counsel for Appellant filed a Supplemental Opening Brief the same day.

Generally, when a party does not raise an issue in their opening brief, the court will not address the argument (see exhibit #2) However,

"

" It is therefore ordered that appellant's supplemental opening brief is accepted for filing. There is only one reason why the court would accept the supplemental opening brief for filing and further order briefing from both sides. Because the court

recognized structural error and as the Court stated "

"

A memorandum opinion was issued by the Court on , affirming the ruling of the trial court. The supplemental opening brief was not considered. (see exhibit #3)

here we have the Court admitting that they recognize structural error simply by the action of ordering the supplemental brief be accepted for filing and stating "

" (structural error)

But when it comes time to consider the issue of structural error of this magnitude, completely ignore it. Not to mention the fact that the error in raising the Rule 16.2(c) issue was solely the responsibility of Appellants Counsel, who was provided by the State of Arizona to defend this case on appeal.

Appellant's Counsel has accepted responsibility for the error in the supplementary brief, (see exhibit #4) and in an attempt to correct the error to the best of his ability, appellant's Counsel also provides a letter admitting his ineffectiveness and states "

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**